

Article - Environment

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§9–206.

(a) (1) In this section the following words have the meanings indicated.

(2) “Community sewerage system” means a publicly or privately owned sewerage system that serves at least two lots.

(3) “Growth tiers” means the tiers adopted by a local jurisdiction in accordance with Title 1, Subtitle 5 of the Land Use Article.

(4) “Lot” includes a part of a subdivision that:

(i) Is used or is intended to be used as a building site; and

(ii) Is not intended to be further subdivided.

(5) “Major subdivision” means:

(i) The subdivision of land:

1. Into new lots, plats, building sites, or other divisions of land defined or described as a major subdivision in a local ordinance or regulation:

A. That is in effect on or before January 1, 2012; or

B. Adopted on or before December 31, 2012, if a local jurisdiction chooses to create a definition or description applicable solely to this section or if a local ordinance or regulation does not define or describe a major subdivision under item A of this item; or

2. If a local jurisdiction has not adopted a definition or description of a major subdivision on or before December 31, 2012, under item 1 of this item, into five or more new lots, plats, building sites, or other divisions of land; and

(ii) If the local ordinance or regulation has multiple definitions or descriptions of a major subdivision under item (i) of this paragraph, the definition or description of a major subdivision that is determined by the local jurisdiction to apply for the purposes of this section.

(6) “Minor subdivision” means:

(i) The subdivision of land:

1. Into new lots, plats, building sites, or other divisions of land defined or described as a minor subdivision in a local ordinance or regulation:

A. That is in effect on or before January 1, 2012; or

B. Adopted on or before December 31, 2012, if a local jurisdiction chooses to create a definition or description applicable solely to this section or if a local ordinance or regulation does not define or describe a minor subdivision under item A of this item, provided that a minor subdivision defined or described in the adopted ordinance or regulation does not exceed seven new lots, plats, building sites, or other divisions of land; or

2. If a local jurisdiction has not adopted a definition or description of a minor subdivision on or before December 31, 2012, under item 1 of this item, into fewer than five new lots, plats, building sites, or other divisions of land; and

(ii) If the local ordinance or regulation has multiple definitions or descriptions of a minor subdivision under item (i) of this paragraph, the definition or description of a minor subdivision that is determined by the local jurisdiction to apply for the purposes of this section.

(7) “On-site sewage disposal” means the disposal of sewage beneath the soil surface.

(8) (i) “On-site sewage disposal system” means a sewage treatment unit, collection system, disposal area, and related appurtenances.

(ii) “On-site sewage disposal system” includes a shared facility or community sewerage system that disposes of sewage effluent beneath the soil surface.

(9) “Public sewer” means a community, shared, or multiuse sewerage system.

(10) “Shared facility” means a sewerage system that:

(i) Serves more than one:

1. Lot and is owned in common by the users;

2. Condominium unit and is owned in common by the users or by a condominium association;

3. User and is located on individual lots owned by the users; or

4. User on one lot and is owned in common by the users; or

(ii) Is located wholly or partly on any of the common elements of a condominium; or

(iii) Serves a housing or another multiple ownership cooperative.

(11) “State agency” means:

(i) The Maryland Agricultural Land Preservation Foundation;

(ii) The Maryland Environmental Trust;

(iii) The Department of Natural Resources; or

(iv) The Maryland–National Capital Park and Planning Commission.

(12) “Subdivision” means a division of a tract or parcel of land into at least two lots for the immediate or future purpose of sale or building development.

(b) (1) Subsections (f) through (i) and subsection (l) of this section apply to residential subdivisions.

(2) Subsections (f) through (i) do not apply to an application for approval of a residential subdivision under § 9–512(e) of this title if:

(i) 1. By October 1, 2012, a submission for preliminary plan approval is made to a local jurisdiction that includes, at a minimum, the preliminary engineering, density, road network, lot layout, and existing features of the proposed site development;

2. By July 1, 2012, in a local jurisdiction that requires a soil percolation test before a submission for preliminary approval:

A. An application for a soil percolation test approval for all lots that will be included in the submission for preliminary approval is made to the local health department; and

B. Within 18 months after approval of the soil percolation tests for the lots that will be included in the submission for preliminary approval, a submission for preliminary approval is made to a local jurisdiction that includes, at a minimum, the preliminary engineering, density, road network, lot layout, and existing features of the proposed site development; or

3. By July 1, 2012, in a local jurisdiction that requires a soil percolation test before a submission for preliminary approval and the local jurisdiction does not accept applications for soil percolation tests year round:

A. Documentation that a Maryland professional engineer or surveyor has prepared and certified under seal a site plan in anticipation of an application for soil percolation tests;

B. An application for a soil percolation test approval for all lots that will be included in the submission for preliminary approval is made to the local health department at the next available soil percolation test season; and

C. Within 18 months after approval of the soil percolation tests for the lots that will be included in the submission for preliminary approval, a submission for preliminary approval is made to a local jurisdiction that includes, at a minimum, the preliminary engineering, density, road network, lot layout, and existing features of the proposed site development; and

(ii) By October 1, 2016, the preliminary plan is approved.

(c) (1) Subsections (f) through (i) and subsection (l) of this section do not apply to covenants, restrictions, conditions, or conservation easements that were created or entered into at any time under § 2–118 of the Real Property Article for the benefit of, or held by, a State agency or a local jurisdiction for the purpose of conserving natural resources or agricultural land.

(2) Subsections (f) through (i) of this section may not be construed as granting any additional rights in covenants, restrictions, conditions, or conservation easements that were created or entered into at any time under § 2–118 of the Real Property Article for the benefit of, or held by, a State agency or a local jurisdiction for the purpose of conserving natural resources or agricultural land.

(d) Subsections (f) through (i) and subsection (l) of this section do not:

(1) Affect a local transfer of development rights program authorized under § 10–324 of the Local Government Article or Title 7, Subtitle 2 or § 22–105 of the Land Use Article; or

(2) Diminish the local development rights transferred in these transfer of development rights programs.

(e) Subsections (f) through (i) and subsection (l) of this section may not be construed as prohibiting a local jurisdiction from altering the definition or description of a major or minor subdivision in a local ordinance or regulation for local zoning or development purposes.

(f) On or after December 31, 2012, a local jurisdiction:

(1) May not authorize a residential major subdivision served by on–site sewage disposal systems, community sewerage systems, or shared systems until the local jurisdiction adopts the growth tiers in accordance with § 5–104 of the Land Use Article; or

(2) If the local jurisdiction has not adopted the growth tiers in accordance with § 5–104 of the Land Use Article, may authorize:

(i) A residential minor subdivision served by on–site sewage disposal systems if the residential subdivision otherwise meets the requirements of this title; or

(ii) A major or minor subdivision served by public sewer in a Tier I area.

(g) (1) Except as provided in subsection (f)(2) of this section and subject to subsection (i) of this section, a local jurisdiction may authorize a residential subdivision plat only if:

(i) All lots proposed in an area designated for Tier I growth will be served by public sewer;

(ii) All lots proposed in an area designated for Tier II growth:

1. Will be served by public sewer; or

2. If the subdivision is a minor subdivision, may be served by on–site sewage disposal systems;

(iii) Except as provided in subsection (h) of this section, the subdivision is a minor subdivision served by individual on-site sewage disposal systems in a Tier III or Tier IV area; or

(iv) The subdivision is a major subdivision served by on-site sewage disposal systems, a community system, or a shared facility located in a Tier III area and has been recommended by the local planning board in accordance with § 5-104 of the Land Use Article.

(2) Any delay in the approval of a residential subdivision plat under this subsection may not be construed as applying to any deadline for approving or disapproving a subdivision plat under Division II or § 5-201 of the Land Use Article or a local ordinance.

(h) (1) The limitation of minor subdivisions in subsection (g)(1)(iii) of this section does not apply to a local jurisdiction, if the subdivision and zoning requirements in their cumulative Tier IV areas result in an actual overall yield of not more than one dwelling unit per 20 acres that has been verified by the Department of Planning.

(2) A local jurisdiction may request, in writing, a verification of the actual overall yield from the Department of Planning.

(3) The Department of Planning shall verify the actual overall yield after consultation with the Maryland Sustainable Growth Commission, established in § 5-702 of the State Finance and Procurement Article.

(i) (1) If two or more local jurisdictions adopt conflicting growth tier designations for the same area, the Department and the Department of Planning shall confer with the local jurisdictions to seek resolution of the conflicting designations.

(2) If a conflict in growth tier designations is not resolved, the Department of Planning shall recommend to the Department and the Department may approve the preferred local jurisdiction designations as recommended by the Department of Planning based on the following best planning practices or factors:

(i) The comprehensive plan, including the municipal growth element, the water resources element, the land use element, and, if applicable, the priority preservation element;

(ii) Growth projections and development capacity; and

(iii) Availability of infrastructure.

(j) With respect to land that is platted for subdivision, a person may not offer any of the land for sale or development or erect a permanent building on the land, unless there have been submitted to the Department:

(1) A plat of the subdivision;

(2) A statement of the methods, consistent with Subtitle 5 of this title, by which the subdivision is to be supplied with water and sewerage service;

(3) Documentation by the local jurisdiction that a major subdivision on-site sewage disposal system, a community sewerage system, or a shared facility is in a:

(i) Tier III area as adopted by the local jurisdiction; or

(ii) Tier IV area in a local jurisdiction that is exempt from the limitation of minor subdivisions as provided in subsection (h) of this section; and

(4) Any other information that the Department requires.

(k) On the basis of information provided under subsection (j) of this section, the Department may order:

(1) Preparation and submission, within any time the Department sets, of any plans and specifications that the Department considers necessary to provide for adequate water supply and sewerage service to the subdivision; and

(2) Installation, within any time the Department sets, of the whole or any part of a water supply system or sewerage system for the subdivision that:

(i) Conforms to the plans submitted to the Department and to any revision of the plans that the Department approves; and

(ii) In the judgment of the Department, is needed for the public health.

(l) (1) This subsection applies to a residential minor subdivision in a Tier II, Tier III, or Tier IV area.

(2) Except as provided in paragraphs (4) and (5) of this subsection, on or after December 31, 2012, if a tract or parcel of land is subdivided into a residential minor subdivision leaving any remainder parcel or tract of land:

(i) The residential minor subdivision may not be resubdivided or further subdivided; and

(ii) The remainder parcel or tract of land may not be subdivided.

(3) Except as provided in paragraphs (4) and (5) of this subsection, on or after December 31, 2012, the subdivision plat of the residential minor subdivision shall state that:

(i) The residential minor subdivision may not be resubdivided or further subdivided;

(ii) The remainder parcel or tract of land may not be subdivided; and

(iii) The subdivision plat is subject to State law and local ordinances and regulations.

(4) On or after December 31, 2012, if a tract or parcel of land is subdivided into a residential minor subdivision, the residential minor subdivision or the remainder parcel or tract of land may be resubdivided or further subdivided if the subdivision or the remainder parcel or tract of land is:

(i) Within a priority funding area as defined in Title 5, Subtitle 7B of the State Finance and Procurement Article; and

(ii) Designated for public sewerage service within 10 years in the approved water and sewer plan.

(5) (i) A tract or parcel of land may be subdivided into a residential minor subdivision in Tier II, Tier III, or Tier IV areas over time if each time a new lot or parcel is created, the subdivision plat states the number of new lots, plats, building sites, or other divisions of land that are left with the number of lots, plats, building sites, or other divisions of land allowed as a subdivision.

(ii) Except as provided in subparagraph (iii) of this paragraph, when the tract or parcel of land that is subdivided over time reaches the total number of lots, plats, building sites, or other divisions of land that are allowed as a residential minor subdivision, the subdivision plat shall state that:

1. The residential minor subdivision may not be resubdivided or further subdivided;

2. The remainder parcel or tract of land may not be subdivided; and

3. The subdivision plat is subject to State law and local ordinances and regulations.

(iii) A remainder parcel or tract of land may be subdivided for nonresidential agricultural purposes, including a farm market, agricultural processing facility, or creamery, and the owner may apply for approval of an on-site sewage disposal system to serve the nonresidential agricultural purposes.

(m) (1) In this subsection, “agricultural activities” includes:

(i) Plowing, tillage, cropping, seeding, cultivating, and harvesting for the production of food and fiber products; and

(ii) The grazing of livestock.

(2) A local jurisdiction may enact a local law or ordinance for the transfer of the right to subdivide, up to 7 lots, by an owner of property used for agricultural activities to the owner of another property used for agricultural activities in accordance with this subsection.

(3) The local law or ordinance shall provide for the recordation of any rights to subdivide that are transferred under this subsection.

(4) A property used for agricultural activities the owner of which receives rights to subdivide under this subsection:

(i) Is limited to a total of 15 lots; and

(ii) Shall cluster the lots on the property.

(5) Rights to subdivide may not be transferred from the owner of property used for agricultural activities in a Tier III area to the owner of property used for agricultural activities in a Tier IV area.

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